

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHSIN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

TERRY MIKSELL,

Defendant.

Case No. 20-05008-01

MR. MIKSELL'S SENTENCING MEMORANDUM
PURSUANT TO 18 UNITED STATES CODE §3553(a)

Comes now Defendant above named, Terry Miksell, by and through counsel Brian D. Risley, and pursuant to 18 United States Code §3553(a), *United States v. Booker*, 125 S.Ct. 738 (2005); *Rita v. United States*, 127 S.Ct. 246 (2007); *Kimbrough v. United States*, 128 S.Ct. 558 (2007); *Gall v. United States*, 128 S.Ct. 586 (2007); and *Spears v. United States*, 129 S.Ct. 840 (2009), and hisby requests this court to sentence his to a reasonable sentence.

Mr. Miksell asks the court that his sentence be sufficient, but not greater than necessary, to comply with the four purposes of sentencing: retribution, deterrence, incapacitation, and rehabilitation.

In support of said request, Mr. Miksell states to the court:

1. Mr. Miksell was placed in federal custody on this matter on January 29, 2020, and found guilty at jury trial following a two day on March 28 and 29, 2022, before this Court.
2. Mr. Miksell and counsel have reviewed the sentencing guidelines, and did have objections to the Presentence Investigation Report regarding paragraphs 32 and 38 of the draft of Pre-Sentence Report. Having reviewed the response

by probation officer in final Pre-Sentence Report, Defendant nor counsel have further argument as to these objections.

3. Mr. Miksell asks the court to sentence him to a sentence of 180-220 months on Counts 1 and 2 to run concurrently in the Bureau of Prisons with placement in Residential Sex Offender Treatment Program.
4. Mr. Miksell has been incarcerated since the date of his arrest on these charges and has patiently waited in the Greene and/or St. Clair County jail for over 2 years waiting due primarily to issues with different counsel and COVID.
5. Pursuant to 18 U.S.C. §3553, the court should impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph 2 of this statute. (18 United States Code §3553(a)).
6. Mr. Miksell's recommended sentence is below the guidelines recommendation of life in this case. Mr. Miksell is currently 66 years of age and would be near 80 years of age before eligible for supervised release under his recommended sentence. This coupled with conditions of supervised release are sufficient to reduce or eliminate chances of recidivism in a case of this type.

WHEREFORE, Mr. Miksell requests this Court to consider all of the above and consider a below guidelines sentence of 180-220 months in the Residential Sex Offender Treatment Program, for the reasons set forth in this memorandum.

Respectfully submitted,

By: /s/ Brian D. Risley
BRIAN D. RISLEY # 50580
1441 E. Primrose St.
Springfield, Missouri 65804
(417) 882-3333; Fax 882-4444
Email: bdrizlee@yahoo.com
Attorney for Mr. Miksell

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 17th day of October, 2022, the foregoing document was filed via electronic filing using the CM/ECF system with the Clerk of the Court which sent e-mail notification of such filing to all CM/ECF participants in this case.

/s/ Brian D. Risley
Brian D. Risley